

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: OCTOBER 4, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-16049 - APPLICANT/OWNER: DFA, LLC, ET AL**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Conformance to the Conditions for Rezoning (ZON-13837), Variance (VAR-14320), Special Use Permit (SUP-13836), Special Use Permit (SUP-14324), Special Use Permit (SUP-14329), and Site Development Plan Review (SDR-13833) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

This is a request for a Variance to allow a proposed 10-foot high block wall where eight feet is the maximum allowed on 20.53 acres at the northeast corner of Bonanza Road and Clarkway Drive.

**EXECUTIVE SUMMARY**

The walls are proposed to be located at the perimeter of the site north of the intersection of Clarkway Drive and Bonanza Road. The applicant claims the increase in wall height satisfies the request of the two abutting property owners. As no evidence of a unique or extraordinary circumstance related to the land itself has been presented that would warrant an increase in wall height, the recommendation is for denial.

**BACKGROUND INFORMATION**

**A) *Related Actions***

- |          |   |
|----------|---|
| 01/30/06 | Planning and Development Department staff denied the applicant's request for a Temporary Commercial Permit (TCP-9385) to allow a Temporary Contractor's Construction Yard on a portion of the subject site. The applicant appealed the denial to the Planning Commission.   |
| 04/05/06 | The City Council approved a Variance (VAR-11006) to allow an eight-foot wrought iron fence where four feet is the maximum height allowed and a waiver of the 20 percent contrasting material requirement at 1700, 1710, 1714, 1718, 1722, 1804, 1808, 1812, 1816, and 1824 West Bonanza Road.   |
| 03/29/06 | The Code Enforcement Division of the Neighborhood Services Department indicated that the site failed to pass a compliance inspection.   |
| 04/24/06 | The Code Enforcement Division of the Neighborhood Services Department issued to the applicant a Notice and Order to Comply with Municipal Code. Violations included employee parking on R-E and R-3 zoned property, portable toilet onsite, vacant R-3 zoned property has piles of refuse, waste, asphalt and dirt, and R-E property being used as commercial storage yard. |

- 05/17/06 The City Council approved a revision (GPA-9219) to the land use map of the Downtown Redevelopment Area and an ordinance (Ord. #5830) adopting the amended plan. The amended plan includes all parcels within the subject site.
- 05/25/06 The Planning Commission approved the appeal (DIR-11779) of the Director's decision to deny a Temporary Commercial Permit per Title 19.18.100.D that would allow a Temporary Contractor's Construction Yard on 15.54 acres adjacent to the north side of Bonanza Road, approximately 460 feet east of Clarkway Drive. The Temporary Commercial Permit was not to exceed six months from the date of approval.
- 09/07/06 The Planning Commission recommended approval of companion items ZON-13837, VAR-14320, SUP-13836, SUP-14324, SUP-14329 and SDR-13833 concurrently with this application.
- 09/07/06 The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #27/ss).

***B) Pre-Application Meeting***

- 05/31/06 A meeting was held for the items related to this variance request. Staff advised the applicant of the submittal requirements for each application, and established that Rental Store, Major Auto Repair Garage, and Truck Rental uses were present and would require Special Use Permits. Standards for each use and for site development were reviewed. The applicant was advised to increase screening of the storage area.

***C) Neighborhood Meetings***

- 08/09/06 Title 19 does not require a neighborhood meeting for this application; however, at the suggestion of the Planning Commission, the applicant did hold a meeting in which 22 members of the public attended. The meeting was to be related to the proposed office project to the east of this site, but most questions were focused on the equipment rental proposal. The following concerns were raised:
- When will the berm be removed?
  - Why did the berm not have a permit in the first place?
  - Why are the hours of operation exceeding the limit placed by Council in DIR-11779?
  - Why has the landscaping required by DIR-11779 not been installed?
  - How tall will the rental equipment be?
  - What will be stored on site? Can a list of those items be given to the residents?
  - Request for no access to Washington
  - Request to leave site R-E

## **DETAILS OF APPLICATION REQUEST**

### ***A) Site Area***

Net Acres: 20.53

### ***B) Existing Land Use***

Subject Property: Temporary Contractor's Construction Yard and Offices  
North: Single-Family Dwellings  
South: Equipment Rental Store with Outside Storage  
East: Condominiums and Single-Family Dwellings  
West: Single-Family Dwellings

### ***C) Planned Land Use***

Subject Property: C (Commercial – Downtown Redevelopment Designation)  
MXU (Mixed-Use – Downtown Redevelopment Designation)  
North: R (Rural Density Residential)  
South: I (Industrial – Downtown Redevelopment Designation)  
East: MXU (Mixed-Use – Downtown Redevelopment Designation)  
West: MXU (Mixed-Use – Downtown Redevelopment Designation)

### ***D) Existing Zoning***

Subject Property: R-E (Residence Estates)  
R-E (Residence Estates) under Resolution of Intent to C-1 (Limited Commercial)  
R-3 (Medium Density Residential)  
C-1 (Limited Commercial)  
North: R-E (Residence Estates)  
South: R-E (Residence Estates)  
C-2 (General Commercial)  
C-M (Commercial/Industrial)  
East: R-3 (Medium Density Residential)  
R-E (Residence Estates)  
West: R-E (Residence Estates)

### ***E) General Plan Compliance***

The subject site is designated C (Commercial) and MXU (Mixed Use) by the Downtown Redevelopment Area Land Use Map. A wide range of uses, including low to high-density residential, office, retail and other commercial uses are allowed by these designations. The proposed rental office and storage activities are permitted under these land use categories.

<b>SPECIAL DISTRICTS/ZONES</b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>	<b>X</b>	
West Las Vegas Plan	X	
Redevelopment Plan Area	X	
<b>Special Overlay District</b>	<b>X</b>	
Airport Overlay District	X	
<b>Trails</b>	<b>X</b>	
<b>Rural Preservation Neighborhood</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

#### Redevelopment Area

The subject site is part of the Downtown Redevelopment Area, which is a portion of the overall Las Vegas Redevelopment Area. It is designated for both commercial and mixed commercial and residential uses. No additional development standards are placed on the project as a result of its inclusion in the Redevelopment Plan. Rather, this designation simply targets the property for increased development efforts and improves access to redevelopment assistance.

#### West Las Vegas Plan

The subject property is located on the edge of the West Las Vegas plan area. This plan focuses mostly on the revitalization of residential areas in the heart of Las Vegas, but its objectives also emphasize the importance of re-investing in deteriorating commercial centers and creating an interesting urban environment. Increasing density and the mixing of uses is also a focus of the plan.

#### Airport Overlay District

The subject property is located within the North Las Vegas Airport Overlay District, which restricts the height of buildings to 140 feet in this area of the city. According to Title 19, all development within the airspace above the height of 35 feet above the surface of the land, lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces is subject to the height standards established on the Airport Overlay Map. The maximum height of the tallest structure proposed on the subject site is 28 feet; therefore, the proposed structures are not subject to the Airport Overlay District standards.

#### Trails

The Pioneer Trail is an existing trail that runs along West Bonanza Road at the northern edge of the property. No additional requirements will be placed on the applicant as a result of this trail. A Pedestrian Path, which includes a five-foot wide sidewalk and a minimum five-foot wide commonly owned transition strip containing landscaping and streetlights, is also required along Bonanza Road. Since the Pioneer Trail is already in place, all that is required of the developer is construction of the landscaped transition area, which is indicated as a 16-foot buffer on the plans.

Buffer Area for RPOD

The subject site is not located within the Rural Preservation Overlay District (RPOD) as described in Title 19.06.150. Several parcels on the site formerly in the RPOD were recently removed. The northern portion of the property is located within 330 feet of parcels included in the RPOD. Efforts should be taken therefore to preserve a rural character in this area.

**ANALYSIS**

***A) Zoning Code Compliance***

**A1) Development Standards**

Title 19.08.050.D(1a) states that perimeter walls:

- Shall be constructed adjacent to any residential zoning district or property used solely for residential purposes;
- Shall be a minimum of six feet in height, and in no case shall exceed the height limitation applicable to the adjacent zoning district or property;
- Walls and fences adjacent to commercial or industrial zoning districts or property used for commercial or industrial uses shall be limited to a maximum of eight feet in height;
- The height of a wall or fence shall be measured from the side with the greatest vertical exposure above finished grade.

The height limitation applicable to the affected properties is eight feet, based on the R-E (Residence Estates) Zoning District. The ordinance also sets the maximum height of walls adjacent to commercial or industrial uses at eight feet. The proposed perimeter walls are 10 feet tall, which is a deviation of 20 percent from the standard. A Variance is required to allow the 10-foot walls.

***B) General Analysis and Discussion***

The proposed 10-foot walls would be located on the perimeter of the subject site adjacent to the east side of Assessor's Parcel Numbers 139-28-302-015 and the south and east sides of 139-28-302-016. According to the applicant, these two abutting property owners requested that 10-foot high walls be constructed next to their property. The proposed walls use contrasting materials as required by Title 19, but are only partially decorative. A Waiver of the 100 percent decorative requirement is requested as part of the Site Development Plan Review (SDR-13833) accompanying this application.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070.B, the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070.L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

The applicant has created a self-imposed hardship by proposing 10-foot high walls where eight feet is the maximum allowed, and no evidence of a unique or extraordinary circumstance related to the land itself has been presented that would warrant an increase in wall height. Providing eight-foot walls would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

19

**ASSEMBLY DISTRICT**      6

**SENATE DISTRICT**      4

**NOTICES MAILED**      224 by City Clerk

**APPROVALS**      0

**PROTESTS**      0